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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,375	02/02/2001	Kevin T. Gallo	03797.00029	8078

26389 7590 08/04/2006

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EXAMINER

O'STEEN, DAVID R

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/776,375

Applicant(s)

GALLO ET AL.

Examiner

David R. O'Steen

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4-13-2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Note to Applicant***

1. Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

### ***Response to Arguments***

2. Applicant's arguments filed May 15, 2006 have been fully considered but they are not persuasive. After summarizing the invention disclosed in the specification submitted on February 2, 2001 by the applicant, the applicant then proceeds to argue that Wason, relied on for the U.S.C. 102 rejection of Claims 1-54, does not meet the limitations of the applicant's claims. Specifically, the applicant argues, on page 12, lines 12-14, that Wason does not teach or suggest a "media player including a first interface for object management and a second interface for exchanging the timing and synchronization information with the web browser." The applicant states that "a software component including an interface is different from a software component having extension modules or plug-ins" (page 12, lines 15-17). Due to this distinction that the applicant maintains, the applicant concludes that Wason teaches neither a first interface for object management nor a second interface for exchanging timing and synchronization information. The applicant also argues that Wason does not teach or suggest "a player-hosting peer with the web browser for negotiating a playback state and a rendering status between the web browser and the media player" (page 12, lines 23-25). The

applicant states that Wason only discloses a synchronization abstraction layer which can coordinate between the various underlying plug-ins and the underlying framework. Furthermore, the applicant states that Wason does not teach or suggest negotiating a playback state and a rendering status between the browser and the media player (page 13, lines 1-2). The applicant maintains that these limitations are autonomous actions taken by the software entity without any input from the user (page 13, lines 5-7). The applicant maintains that Wason performs only the functions initiated by the user and not such actions as negotiating a playback state between the browser and the media player.

After examining the applicant's argument, the examiner respectfully disagrees. As regards the applicant's first point pertaining to the media player, the examiner believes this limitation is met by the RealVideo object disclosed on col. 5, line 55. RealVideo is part of the Real Media Player (col. 5, lines 54-58), which is a common media player. The examiner also asserts that the second interface for exchanging timing and synchronization information with the web browser is met by the Synchronization Abstraction Layer of the browser (col. 5, lines 59-65). The examiner must respectfully disagree with the applicant and state that, while RealVideo, in this instance, may be used as a plug-in, that this does not mean that there is no interface, as required in Claim 1. On the contrary, an interface is needed so that RealVideo can be synchronized with the other components and that this interface is disclosed as the Synchronization Abstraction Layer (SAL) in Wason. Moreover, the examiner asserts that Wason does teach negotiating a playback state and a rendering status between the

browser and the media player (col. 2, lines 26-41). Wason also gives as examples how the SAL can be used to synchronize animation, advertising, games, and other applications to streaming multimedia (col. 2, lines 46-50) without any action required by the user. It should also be noted that as a RealPlayer plays the content, it updates the current time with the SAL and the SAL notifies the other applications (col.5 lines 58-64). This passage illustrates a media player updating other applications automatically through an interface.

On lines 15-16 of page 13, the applicant argues that Wason does not teach or suggest a media player that notifies the player-hosting peer of media player status changes. Instead, the applicant maintains, Wason discloses an object that launches a seek function.

The examiner disagrees. The media player in Wason periodically updates the other applications through the SAL of its state changes, such as updating the current time of the presentations (col. 5, lines 58-64). If the user interacts with RealPlayer, then RealPlayer notifies all other modules through the SAL (cols. 5 and 6, lines 66-67 and 1-15). The seek function mentioned by the applicant is launched by the RealTOC object, but it is the Media player that updates the other modules of its new status (again, see col. 6, lines 2-9).

On lines 20-21 of page 13, the applicant argues that Wason does not teach or suggest other commercial content synchronized with a portion of the media content.

The examiner disagrees. Wason clearly states that advertising can be integrated into and synchronized with streaming multimedia such as video or audio (col. 2, lines 44-50).

The applicant also argues the rejection of Claim 39. This Claim is substantially the same as Claims 1 and 3 and the applicant raises the same objections. In response to such arguments, the examiner wishes to reaffirm his points regarding Claims 1 and 3 made above. The applicant also argues the rejection of 52 which is substantially the same as Claim 36. In response to such arguments, the examiner wishes to reaffirm his points regarding Claim 36.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Wason et al (USPN 6,701,383), cited by Examiner.

Regarding claim 1, the claimed “system for synchronizing playback of media content with other content or with host computer time information” is met as follows:

- The claimed “web browser for providing a timing representation to a media player” is met by the web browser discussed in column 1, lines 29-31, which contains a plug-in media player and a SAL (synchronization Abstraction Layer) API to send timing information from the browser to the media player (discussed below).
- The claimed “media player including a first interface for object management and a second interface for exchanging timing and synchronization information with the web browser” is met by the RealVideo object 302 which creates a window for viewing media objects [col. 5, line 55] and the interface for passing the time and current information from the player to the SAL (Synchronization Abstraction Layer) 310 API of the browser [col. 5, lines 59-65].
- The claimed “player-hosting peer within the web browser for negotiating a playback state and a rendering status between the web browser and the media player” is met by the SAL (Synchronization Abstraction Layer), which functions as a synchronization interface for the web browser and media player to communicate through [col. 2, lines 26-41].

Regarding claim 2, the claimed “player-hosting peer issues commands to the media player” is met by the SAL calling the RealPlayer plug-in and sending time updates to the media player in order to keep the two synchronized [col. 5, line 63-65].

Regarding claim 3, the claimed “media player notifies the player-hosting peer of media player state changes” is met by the media player sending the current time to the

SAL for synchronization purposes when seeking or performing other functions [col. 6, lines 6-7].

Regarding claim 4, the claimed “second interface includes a playback state and a current playback time passed from the media player to the web browser” is met by the RealPlayer periodically calling SAL (within the browser) with the current time and synchronizing information (such as the node of the table for presenting a TOC window that is synchronized with the video) [col. 5, lines 59-65].

Regarding claim 5, the claimed “media player and the player-hosting peer jointly maintain the playing state and the current playback time” is met by SAL and the RealPlayer continually being updated with current time information in order to keep them synchronized [col. 5, lines 54-65].

Regarding claim 6, the claimed “second interface includes web browser time information and/or application time information passed from the web browser to the media player” is met by the ability for the SAL to keep the current time and call the RealPlayer with time updates [col. 5, lines 63-65].

Regarding claims 7-34, the claimed “player-hosting peer transitions through states including inactive, active, waiting for data, and out of sync” and the “transitions”, “notifications”, and “passes” that take place in the player-hosting peer and the media player are met by the inherent states of the SAL and the media player within the browser. As discussed in column 5, line 54 – column 6, line 23, the SAL and the media player are periodically calling each other and communicating state and time information between each other, in order to keep the SAL and the media player synchronized for



the purpose of presenting synchronized information along with the media being played in the media player. For example, RealVideo and RealTOC are both synchronized to the current time of the RealPlayer. All of the passing from state to state is accomplished, though it may be inherent, it is accomplished by the passing of data between the SAL and the RealPlayer. The start, stop, seek, fast forward, and rewind commands are all discussed thoroughly throughout the cited section [col. 5, line 54 – col. 6, line 23].

Regarding claim 35, the claimed “web browser is operating in a television set top environment” is met by the mention of the fact that a set-top box can be used to implement this invention [col. 2, line 19].

Regarding claim 36, the claimed “other content includes advertising or other commercial content synchronized with at least one portion of the media content” is met by the advertising that can be integrated and synchronized with streaming media such as video and audio [col. 2, lines 49-50].

Regarding claim 37, the claimed “proxy layer for passing synchronization information or commands or both synchronization information and commands between the browser and an external media player” is met by the fact that the SAL functions as an API and acts as an interface between the browser and RealPlayer [col. 2, lines 27-41]. The SAL functions independently of the underlying framework, which is exactly what a proxy does. The plug-ins do not interact directly with the browser framework, but instead interact through the SAL.

Regarding claim 38, the claimed “player-hosting peer implements an interface for providing access to timing information from the player-hosting peer” is met, again, by the SAL, which synchronizes itself and the plug-ins with the time-line of the underlying framework [col. 2, lines 27-42]. As can be seen on column 5, lines 54-65, the SAL provides the plug-ins and the browser with timing information.

Regarding claim 39, the claimed “method of synchronizing playback of media content with other content or with host computer time information” is met as follows:

- The claimed step of “providing a timing representation to a media player” is met by the web browser discussed in column 1, lines 29-31, which contains a plug-in media player and a SAL (synchronization Abstraction Layer) API to send timing information from the browser to the media player (discussed below).
- The claimed step of “providing a first media player interface for object management and a second media player interface for exchanging timing and synchronization information with a web browser” is met by the RealVideo object 302 which creates a window for viewing media objects [col. 5, line 55] and the interface for passing the time and current information from the player to the SAL (Synchronization Abstraction Layer) 310 API of the browser [col. 5, lines 59-65].
- The claimed step of “issuing commands from the web browser to the media player, the commands being directed to media player operations other than, and in addition to, instantiation of the media player; and

notifying the web browser of media player state changes” is met by the SAL (Synchronization Abstraction Layer), which functions as a synchronization interface for the web browser and media player to communicate through [col. 2, lines 26-41]. The initiation of the media player is met by the creation of the RealVideo object 302 [col. 5, lines 55-56] and the notification is met by the communication that takes place between the SAL and the media player [col. 5, lines 59-65].

Regarding claim 40, the claimed “second media player interface includes a playback state and a current playback time passed from the media player to the web browser” is met by the RealPlayer periodically calling SAL (within the browser) with the current time and synchronizing information (such as the node of the table for presenting a TOC window that is synchronized with the video) [col. 5, lines 59-65].

Regarding claim 41, the claimed “media player and the web browser both maintain the playing state and the current playback time” is met by SAL and the RealPlayer continually being updated with current time information in order to keep them synchronized [col. 5, lines 54-65].

Regarding claim 42, the claimed “second media player interface includes the host computer time information passed from the browser to the media player” is met by the ability for the SAL to keep the current time and call the RealPlayer with time updates [col. 5, lines 63-65].

Regarding claims 43-51, the claimed “notification” and “receiving and passing commands” steps are met by the inherent states of the SAL and the media player within

the web browser. As discussed in column 5, line 54 – column 6, line 23, the SAL and the media player are periodically calling each other and communicating state and time information between each other, in order to keep the SAL and the media player synchronized for the purpose of presenting synchronized information along with the media being played in the media player. For example, RealVideo and RealTOC are both synchronized to the current time of the RealPlayer. All of the passing from state to state is accomplished, though it may be inherent, it is accomplished by the passing of data between the SAL and the RealPlayer. The start, stop, seek, fast forward, and rewind commands are all discussed thoroughly throughout the cited section [col. 5, line 54 – col. 6, line 23].

Regarding claim 52, the claimed “other content includes advertising or other commercial content synchronized with at least one portion of the media content” is met by the advertising that can be integrated and synchronized with streaming media such as video and audio [col. 2, lines 49-50].

Regarding claim 53, the claimed “media player is external to the browser” is met by the fact that the RealPlayer software can act as a plug-in to the web browser [col. 1, lines 27-40].

Regarding claim 54, the claimed “step of providing a timing representation to a media player further comprises the step of implementing an interface to provide access to timing information from the web browser” is met, again, by the SAL, which synchronizes itself and the plug-ins with the time-line of the underlying framework [col.

2, lines 27-42]. As can be seen on column 5, lines 54-65, the SAL provides the plug-ins and the browser with timing information.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. O'Steen whose telephone number is 571-272-7931. The examiner can normally be reached on 8:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DRO



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